

PERMITTEE: CITY OF BRUNSWICK

PERMIT NUMBER: 98-504-0008(2)

EFFECTIVE DATE: _____

NOTE: The term you and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below. (and continue on page 5)

PROJECT DESCRIPTION: CITY OF BRUNSWICK, 4095 CENTER ROAD, BRUNSWICK, OHIO 44212, IS HEREBY AUTHORIZED BY THE SECRETARY OF THE ARMY TO: PLACE FILL IN 0.86 ACRE OF WETLAND TO CONSTRUCT THE MAXWELL BOULEVARD EXTENSION IN ACCORDANCE WITH THE GENERAL AND SPECIAL CONDITIONS, AND THE PLANS AND DRAWINGS AND ANY ADDITIONAL SPECIAL CONDITIONS ATTACHED HERETO WHICH ARE INCORPORATED IN AND MADE A PART OF THIS PERMIT.

PROJECT LOCATION: THE PROJECT IS LOCATED IN WETLANDS ADJACENT TO AN UNNAMED TRIBUTARY TO LAKE BRUNSWICK, BETWEEN MAXWELL BOULEVARD AND CENTER STREET (SR 303), IN THE CITY OF BRUNSWICK, MEDINA COUNTY, OHIO.

PERMIT CONDITIONS

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on _____. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you must make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you may obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as this specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(PERMITTEE)

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

(DISTRICT COMMANDER)

(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)

SPECIAL CONDITIONS:

1. The permittee shall assume all responsibility for complying with all Special Conditions. If the reports required under these conditions are not submitted by the specified date, unless a time extension is approved in writing by the Corps of Engineers, the permittee shall pay stipulated penalties in the amount of \$50.00 per day for each day past the submittal date. Such funds shall be submitted by check made payable to "The Finance and Accounting Officer," and forwarded directly to the Office of Counsel, U.S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo, New York 14207-3199.
2. That as mitigation for the unavoidable and permanent loss of 0.86 acre of Waters of the United States, including Federal jurisdictional wetlands resulting from the placement of fill associated with the construction of The Maxwell Boulevard Extension, you shall create a minimum of 3.44 acres of wetland within the 15-acre North Carpenter Road parcel located just south of the intersection of Malvern Drive and North Carpenter Road. The mitigation will include forested, scrub/shrub and emergent cover types in a seasonally flooded/saturated water regime. The mitigation parcel shall be placed in a perpetual conservation easement. The conservation easement shall be held by the Medina County Park District to be preserved in perpetuity. Signed copies of the perpetual conservation easement must be submitted to the U.S. Army Corps of Engineers, Orwell Field Office, 33 Grand Valley Avenue, Orwell, Ohio 44076, Attention: Mark Lesinski. The signed easement document copies shall be submitted by **March 1, 2003**.
3. That the mitigation constructed for this project shall meet the following specific goals:
 - a. That the construction of the mitigation for the Maxwell Boulevard Extension shall create 3.44 acres of wetland. The wetlands shall contain a diversity of habitat types, including wet meadow, emergent, scrub-shrub and forested wetlands.
 - b. At the end of the third growing season the created wetland area, exclusive of open water zones, shall contain greater than 50% aerial coverage by facultative, facultative wet, and obligate wetland native perennial plant species. In-field inspections of the established plant communities will be utilized to make the determination of aerial coverage. If this goal is not met at the end of the third year, supplemental plantings will be completed under the supervision of the Corps of Engineers during the fourth growing season.
 - c. At the end of the fifth growing year, the created wetland area, exclusive of open water zones, shall contain greater than 75% aerial coverage by facultative, facultative wet, and obligate wetlands native perennial plant species. In-field inspections of the established plant communities will be utilized to make the determination of aerial coverage. If this goal is not met at the end of the fifth year, supplemental plantings will be completed under the supervision of the Corps of Engineers during the sixth growing season.

SPECIAL CONDITIONS CONTINUED:

d. That at least two additional years of monitoring shall be required should the created wetland not meet the 50% aerial coverage for the third growing season or the 75% aerial coverage for the fifth growing season and require supplemental plantings.

e. At the end of any monitoring period, the created wetland area, exclusive of open water zones and forested zones, shall not contain greater than or equal to 10% aerial coverage (cumulatively) of *Phragmites australis* (common reed), *Lythrum salicaria* (purple loosestrife), and *Phalaris arundinacea* (reed canary grass). In-field inspections of the established plant communities will be utilized to make the determination of aerial coverage.

4. That the mitigation area shall be constructed during the 2002 construction season. Earth-moving and stabilization activities shall be completed by **November 30, 2002**.

5. That the mitigation and monitoring plan, entitled: Wetland Mitigation Design Plan for the Maxwell Boulevard Extension Project: Brunswick, Medina County, Ohio, as modified by the January 4, 2000 letter from R. E. Warner, is incorporated into and made part of this permit (See attachments 1 and 2).

6. That in the event that circumstances, which may be deemed beyond the direct control of the applicant or his agent, require the adjustment of the submittal due dates given in these special conditions the applicant may request a time extension. This request must be received a minimum of **30 days prior to the due date** of the report or other activity.

7. That the Baseline and Monitoring reports required as part of the Wetland Mitigation Design Plan for the Maxwell Boulevard Extension Project: Brunswick, Medina County, Ohio shall include the following additional information:

a. The Baseline Report shall include: a surveyed plan-view and cross section drawing of the mitigation area on 0.5 foot contours prepared upon completion of earth-moving; surface elevations; location of sampling and photolocation points, including GPS coordinates; depth to excavation base at sampling stations; depth of topsoil at sampling stations; list of vegetative species seeded and planted; list of animal and bird species observed and animal sign encountered; and identification of any deviations from the approved mitigation design and discussion of the reason for the deviation.

b. The Midpoint and Final Wetland Monitoring Reports shall consist of data collected during Late April-May and Mid-August-September prior to and in the same year of the report due date (see Special Condition 11). The data shall include: photographs of the wetland from the photolocation stations; the wetland footprint; surface elevations; water depths at sampling station; vegetative community map of the mitigation and buffer area; vegetation present at each sampling point with scientific name and indicator status - dominant

SPECIAL CONDITIONS CONTINUED:

species are to be indicated and their percent cover; list of animal and bird species observed and animal sign encountered; evaluation of the mitigation area; and Ohio Rapid Assessment Methodology (ORAM) Version 5 scores for the mitigation area.

8. That you are responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.

9. That the mechanical equipment used to execute the work authorized herein shall be operated in such a way as to minimize turbidity that could degrade water quality and adversely affect aquatic plant and animal life.

10. That trees with cavities or exfoliated bark shall not be cut between April 15 and September 15 without first conducting a mist net survey (or other acceptable survey) for the Indiana bat. Trees with cavities or exfoliating bark may provide potential roosting habitat for this Federally listed endangered species. Additional information may be obtained by contacting the U.S. Fish and Wildlife Service at (614) 469-6923.

11. That the permittee and his agent will arrange the details regarding the scheduling of field work needed to ensure project success and to comply with the terms and conditions of this permit. Documents may be submitted prior to the due dates. The list below is a summary of mitigation project events and report submittal due dates for the project.

SUMMARY OF PROJECT EVENTS AND SUBMITTAL DUE DATES FOR PHASE 1
(see Special Conditions Nos. 1 and 6)

<u>EVENT</u>	<u>DUE DATE</u>
Complete Mitigation Construction	11/30/2002
Submit Mitigation Baseline Report	12/30/2002
Submit Monitoring Report	12/30/2003
Submit Monitoring Report	12/30/2004
Submit Monitoring Report	12/30/2005
Submit Monitoring Report	12/30/2006
Submit Monitoring Report	12/30/2007

12. That the Water Quality Certification issued for this project by the State of Ohio is part of this Department of the Army permit pursuant to Section 401(d) of the Clean Water Act. Noncompliance with the conditions may be basis for suspension, revocation or modification of this permit.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: City of Brunswick		File Number: 98-504-0008(2)	Date: 9/25/01
Attached is:		See Section below	
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Mark T. Lesinski
U.S. Army Corps of Engineers
Orwell Field Office
33 Grand Valley Avenue
Orwell, Ohio 44076
(440) 437-5840
Mark.Lesinski@lrb01.usace.army.mil

If you only have questions regarding the appeal process you may also contact:

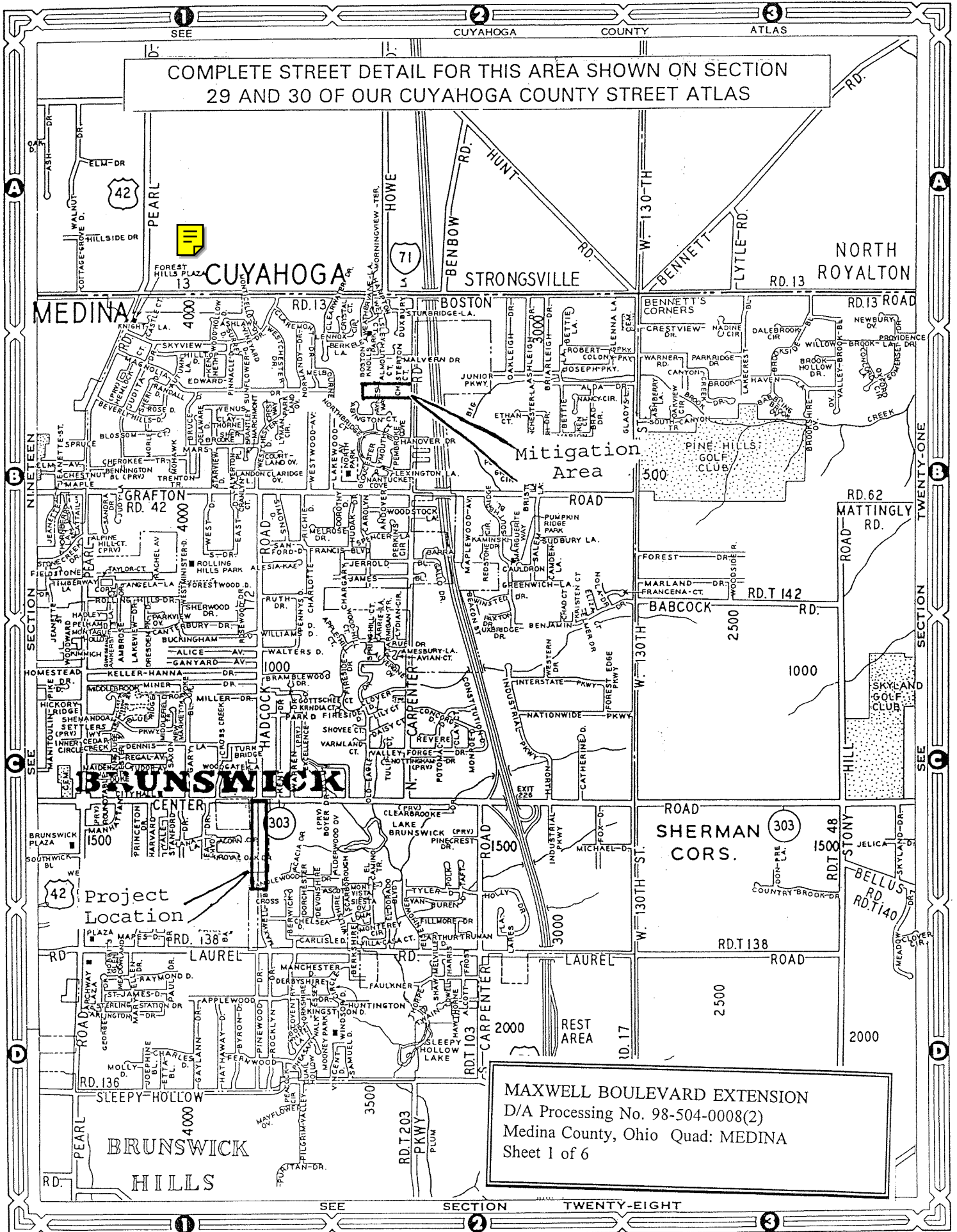
Ms. Suzanne Chubb
U.S. Army Corps of Engineers
Great Lakes and Ohio River Division
550 Main Street
Cincinnati, OH 45201-1159
(513) 684-7261
suzanne.l.chubb@lrdor.usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



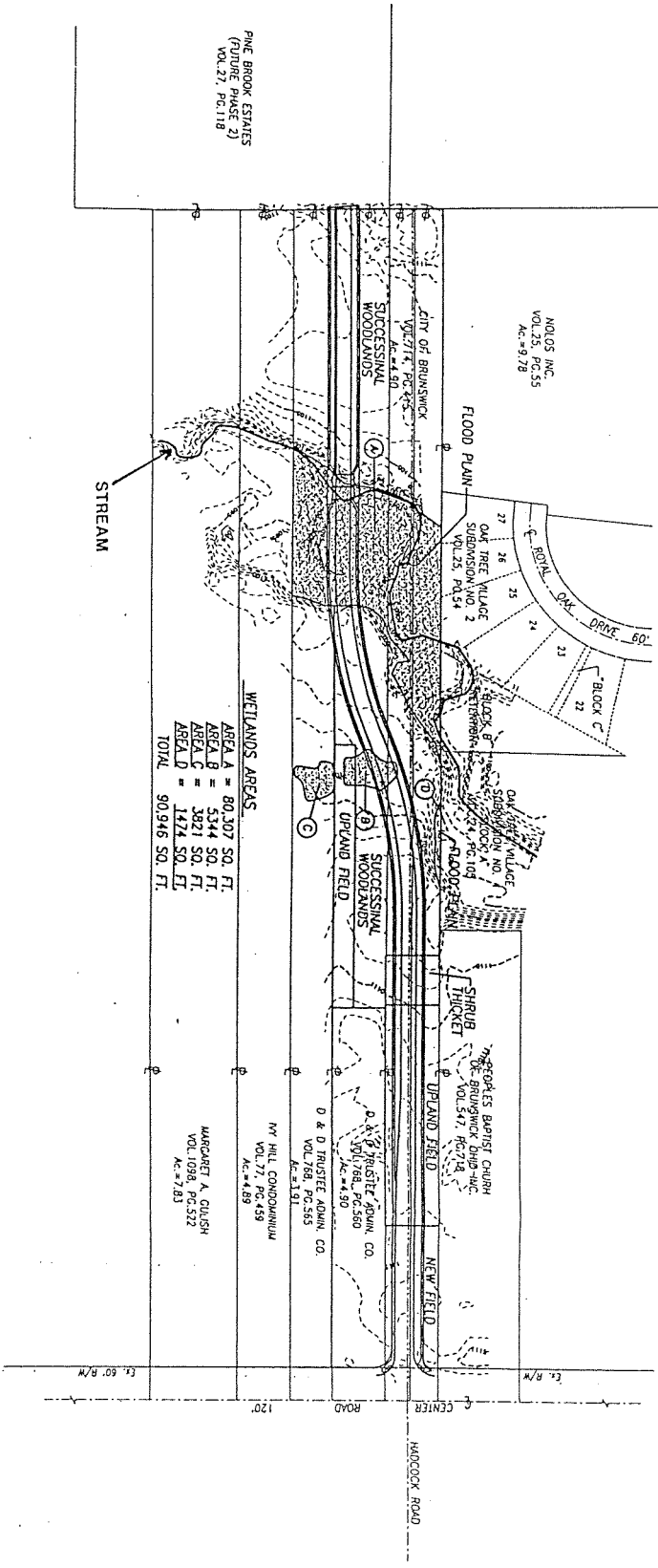
MAXWELL BOULEVARD EXTENSION
D/A Processing No. 98-504-0008(2)
Medina County, Ohio Quad: MEDINA
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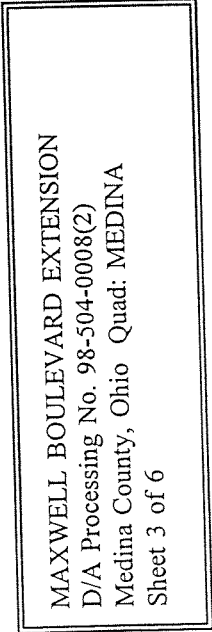
WETLAND LOCATION MAP



MAXWELL BLVD.

WETLANDS





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